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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/965,264	09/27/2001	Gary Allen Denton	2001-0079.01	3413

21972 7590 08/22/2005

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EXAMINER

BRINICH, STEPHEN M

ART UNIT	PAPER NUMBER
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2624

DATE MAILED: 08/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/965,264	Applicant(s) DENTON ET AL.	
	Examiner Stephen M. Brinich	Art Unit 2624	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 June 2005.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2 and 4-26 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☒ Claim(s) 20-26 is/are allowed.
6) ☒ Claim(s) 1,2 and 4-19 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-2 & 4-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, line 5, the phrase "based said estimated reflectivity" is unclear (it should apparently read "based on said estimated reflectivity").

Claim Rejections - 35 USC § 102

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Claims 1, 4-5, 7-11, & 17-19 (insofar as they are understood) are rejected under 35 U.S.C. 102(b) as being anticipated by Budnik et al (5903796).

Re claim 1, Budnik et al discloses (column 13, line 1 - column 18, line 5; particularly column 13, lines 22-42; column 14, lines 1-4; column 15, lines 23-45 & 62-63; column 16, lines 2-9, 39-45, & 53-64; and column 17, lines 22-26 & 59-64) a

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calibration arrangement for an electrophotographic machine in which diagnostic tests including tests of reflectivity of an image-bearing surface are performed. This reflectivity is described in terms of a percentage, which by definition is a computed ratio (column 16, lines 59-61). These tests are performed on the basis of various parameters, one of which is the amount of machine usage (column 17, lines 22-26). The results are then used to make device adjustments (e.g. after one test, a toner dispenser is activated in response to a toner reflectance ratio of less than 15%, as described at column 16, lines 62-64).

Re claims 4-5, 7-8, & 10, these reflectivity tests include tests of the reflectivity of a surface on which toner patches in various shades of gray has been deposited (e.g. column 16, lines 7-9) and of a clean toner-free patch (column 15, lines 62-63).

Re claim 9, Budnik et al further discloses (column 16, lines 24-26) a reflectance measurement of a toner-saturated (inherently produced by the described "high exposure setting") patch.

Re claim 11, Budnik et al further discloses (column 16, lines 39-51) the forming of toner patches under different electrophotographic conditions (e.g. horizontal and vertical pixel alignment).

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Re claims 17-18, Budnik et al discloses (column 4, line 64 - column 6, line 14; particularly column 4, lines 64-66; column 5, lines 18-23; and column 6, lines 6-14) the use of an intermediate transfer belt as an image-bearing surface.

Re claim 19, Budnik et al discloses (column 15, lines 23-45) laser power as an electrophotographic condition.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Budnik et al.

Re claim 2, Budnik et al does not specify the specific measurement parameter used to quantify the amount of machine usage.

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to use a specific measure of electrophotographic machine usage history such as page count, toner refills, or the like. The suggestion/motivation for doing

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so would have been to provide a specific quantifiable value for the amount of machine usage.

Therefore, it would have been obvious to use such a measure of the amount of machine usage in Budnik et al to obtain the invention as specified in claim 2.

7. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Budnik et al in view of Applicant's described Prior Art.

Re claim 6, Budnik et al describes printing in various shades of gray, and does not disclose the use of cyan, magenta, yellow, and black toner.

Applicant describes as Prior Art (page 2, line 22) the use of an electrophotographic machine that deposits cyan, magenta, yellow, and black toner.

Budnik et al and Applicant's described Prior Art are combinable because they are from the field of electrophotographic image reproduction.

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to use CMYK color printing in the Budnik et al electrophotographic image reproduction system. The suggestion/motivation for doing so would have been to enable the reproduction of color images.

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Therefore, it would have been obvious to combine Budnik et al with Applicant's described Prior Art to obtain the invention as specified in claim 6.

Allowable Subject Matter

8. Claims 20-26 are allowed.

9. Claims 12-16, insofar as they are understood, are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

10. The following is a statement of reasons for the indication of allowable subject matter:

Re claim 12, the art of record does not teach or suggest the recited calculation of respective reflection ratio for each of several toner patches in a manner dependent upon each of the recited measuring steps.

Re claims 20 & 25 (and dependent claims 21-24 & 26), the art of record does not teach or suggest the recited determining of laser power value or developer bias value in a manner dependent upon the recited estimating step and each of the recited measuring steps.

Response to Arguments

11. Applicant's arguments filed 6/9/05 have been fully considered but they are not persuasive.

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Applicant argues (6/9/05 Response: page 6, lines 9-11) that Budnik teaches the testing of a machine for faulty parts and operations to facilitate repair, and does not adjust a machine condition based on a reflective ratio as recited in claim 1.

However, as noted above, Budnik teaches at least one example of a machine condition adjustment (toner dispensing) in response to a reflectance ratio (column 16, lines 62-64).

Conclusion

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

13. Any inquiry concerning the contents of this communication or earlier communications from the examiner should be directed to Stephen M. Brinich at 571-272-7430.

Any inquiry relating to the status of this application or proceeding or any inquiry of a general nature concerning application processing should be directed to the Tech Center 2600 Customer Service center at 571-272-2600 or to the USPTO Contact Center at 800-786-9199 or 703-308-4357.

The examiner can normally be reached on weekdays 7:00-4:30, alternate Fridays off.

If attempts to contact the examiner and the Customer Service Center are unsuccessful, supervisor David Moore can be contacted at 571-272-7437.

Faxes pertaining to this application should be directed to the Tech Center 2600 official fax number, which is 571-273-8300 (as of July 15, 2005).

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Hand-carried correspondence may be delivered to the Customer Service Window, located at the Randolph Building, 401 Dulany Street, Alexandria, VA 22314.

Stephen M Brinich
Examiner
Art Unit 2624

smb *Smb*
August 11, 2005



Thomas D
~~FORNEY~~ LEE
PRIMARY EXAMINER